

Holly C. Wells
Mara E. Michaletz
Zoe A. Eisberg
Birch Horton Bittner & Cherot
510 L Street, Suite 700
Anchorage, Alaska 99501
hwells@bhb.com
mmichaletz@bhb.com
zeisberg@bhb.com
Telephone 907.276.1550

Attorneys for Felisa Wilson, George Martinez, and Yarrow Silvers

IN THE SUPREME COURT FOR THE STATE OF ALASKA

In the Matter of the 2021)	
Redistricting Cases)	Supreme Court Nos.
(Matanuska-Susitna Borough, S-18328))	S-18332/S-18419
(City of Valdez, S-18329))	
(Municipality of Skagway, S-18330))	
(Alaska Redistricting Board, S-18332))	
(Alaska Redistricting Board, S-18419))	

Trial Court No. 3AN-21-08869CI

EAST ANCHORAGE MOTION FOR ATTORNEY'S FEES AND COSTS

Felisa Wilson, George Martinez, and Yarrow Silvers ("East Anchorage"), by and through undersigned counsel, hereby move the Court for an award of full attorney's fees and costs. This motion is made pursuant to Appellate Rule 508(e)(1) and Alaska Statute 09.60.010(c)(1) and (d)(1).

I. AUTHORITY FOR AWARD OF FEES

Under Alaska Rule of Appellate Procedure 508(b) an appellee is permitted to recover costs in cases where the Superior Court's judgment or order is affirmed by the Alaska Supreme Court unless the Supreme Court orders otherwise or fees and costs are not permitted by law. On April 21, 2023, the Alaska Supreme Court ordered

the parties to file any motions for attorney's fees and costs in the above-captioned appeal under Alaska Rule of Appellate Procedure 508(e)(1) and AS 09.06.010(c)(1) and (d)(1) by the close of business Friday, May 12, 2023.

Appellate Rule 508(e)(1) authorizes an award of attorney's fees when such fees are permitted by statute. To this end, AS 09.60.010(c)(1) requires that "in a civil action or appeal concerning the establishment, protection or enforcement of a right under the United States Constitution or the Constitution of the State of Alaska, the court shall award, subject to (d) and (e) of [AS 09.60.010], full reasonable attorney's fees and costs to a claimant, who, as plaintiff, counterclaimant, cross claimant, or third-party plaintiff in the action or on appeal, has prevailed in asserting the right..."¹ For purposes of this briefing, a claimant or plaintiff protected by AS 09.60.010(c)(1) may be referred to as a "constitutional claimant."

While a prevailing constitutional claimant has a statutory right to full reasonable attorney's fees, there are limitations placed upon the calculation of such fees. Pursuant to AS 09.60.010(c)(1)(d):

- (1) the court shall include in the award only that portion of the services of claimant's attorney fees and associated costs that were devoted to claims concerning rights under the United States Constitution or the

¹ See *In Re 2011 Redistricting Cases*, Supreme Court Case No. S-14721, Order issued June 19, 2013 ("The Board argues at length that both parties prevailed on different issues and that it was therefore appropriate for this court to require each side to bear its own fees and costs. But the statute appears not to allow for such a result. AS 09.60.010(c)(1) provides that the court "shall award" fees in appropriate cases, and subsection (d)(1) provides for the award of costs and fees as to constitutional issues where a litigant prevailed.")

Constitution of the State of Alaska upon which the claimant ultimately prevailed; and

(2) the court shall make an award only if the claimant did not have sufficient economic incentive to bring the suit, regardless of the constitutional claims involved.

East Anchorage challenged the constitutionality of the 2021 redistricting plan, the superior court found that plan to be unconstitutional, and this Court affirmed that determination. The attorney's fees and costs incurred by East Anchorage in responding to the Petition for Review filed by the Board were reasonable and devoted to the establishment, protection, and enforcement of the Alaska Constitution. The respondents that comprise East Anchorage have no economic incentive to file the above-captioned appeal or the underlying action. East Anchorage prevailed on the main issue before the court and all fees were incurred in connection with or in furtherance of the constitutional claim upon which East Anchorage prevailed. Accordingly, East Anchorage has a statutory right to recover full attorney's fees and costs in the above-captioned appeal.

East Anchorage also respectfully requests attorney's fees incurred in responding to the Board's Emergency Petition for Review filed with the Alaska Supreme Court on January 17, 2022. While this Court denied that petition, the Superior Court granted the relief sought by East Anchorage in that motion practice and the Superior Court's order issued in response to that motion was affirmed by this Court. Further, all of the work performed in response to the Board's emergency petition supported East Anchorage's successful constitutional claim.

II. EAST ANCHORAGE PREVAILED ON ITS MAIN CONSTITUTIONAL CLAIM: THE BOARD FAILED TO COMPLY WITH ARTICLE VI, § 11 OF THE ALASKA CONSTITUTION WHEN IT ADOPTED UNCONSTITUTIONAL SENATE DISTRICT K REQUIRING CORRECTION

Like the substantive claims that give rise to them, attorney's fee awards in the redistricting arena are nuanced and unique. Unlike other claims grounded in the Alaska Constitution, redistricting cases arise from a mandate placed on the legislature, executive, and judicial branches of government. As a result, the main constitutional claim that arises in redistricting is not the individual statutory or constitutional violations articulated in an application compelling the Board to correct an error: It is instead the broader and more fundamental allegation that error was made and the filing of an application under article VI, § 11 of the Alaska Constitution to correct it. Here, East Anchorage asserted that the Board failed to comply with the process required by the Alaska Constitution when drawing the senate map and this failure resulted in the creation of an unconstitutional Senate District K.²

Unlike other constitutional claims, those raised in an application to compel a redistricting board to correct an error in a redistricting plan necessarily implicate a constitutional claim because the board has a constitutional obligation to adopt a lawful redistricting plan. A redistricting board's sole purpose and duty is grounded in the

² See Supreme Court Op., Supreme Court Nos. 18332/18419, p. 27 ("The Board's petition focuses on East Anchorage's successful challenge to Senate District K..."); *In the Matter of the 2021 Redistricting Plan*, 3AN-21-08869CI, pp. 1-2 (Finding that the Board "did not follow the constitutional process when it drew the senate map...").

constitutionally mandated and regulated redistricting process. As recognized by this Court, “[a]mple evidence illustrates the constitutional convention delegates’ intent to protect against gerrymandering when they drafted article VI, section 6.”³ Article VI of the Alaska Constitution outlines with specificity the procedures that must be followed and the substantive criteria that must be met by the Board in completing its work.⁴ Article VI, § 11 of the Alaska Constitution provides a procedure through which qualified voters may “apply to the superior court to compel the Redistricting Board, *by mandamus or otherwise*, to perform its duties” or “to correct *any error in redistricting*.”⁵

Although the Alaska Constitution grants litigants in other contexts rights of access to the courts, and the right of initiative, applications to compel the correction of errors in redistricting are unique in that the Alaska Constitution (1) establishes the redistricting Board’s duties; 2) specifically creates a right of action for voters aggrieved by the Board; and (3) authorizes voters to pursue a myriad of legal theories to compel the Board to comply with its constitutional obligations. Even without these explicit constitutional requirements, a claim is constitutional if the Constitution is the source of the right asserted. By way of example, the Alaska Supreme Court has found that even where a statutory violation is asserted, a claim alleging that the statutory violation

³ Supreme Court Op., Supreme Court Nos. 18332/18419, p. 7.

⁴ Art. VI, § 11 of the Alaska Constitution (provides procedure through which qualified voters may “apply to the superior court to compel the [Board], by mandamus or otherwise, to perform its duties under this article or to correct any error in redistricting.”)

⁵ See Art. VI, § 11 of the Alaska Constitution (emphasis added).

deprived claimants of a constitutional right qualifies as a constitutional claim. Thus, “one must look not at the ‘source of the rule of law’ but instead at the ‘source of the right asserted.’”⁶ Here, the source of the right asserted is first and foremost Article VI of the Alaska Constitution.

This interpretation is further supported by the interwoven and layered nature of claims arising in redistricting and the inability to parse out one “claim” from another. For example, in the East Anchorage First Amended Application to Compel Correction, it alleged that the Board, “shielded from public scrutiny by unlawful process and procedures, adopted arbitrary and egregiously irrational senate districts, pairing Eagle River house districts with fragments of East Anchorage communities of interest despite the starkly different and even contradictory legislative needs of these communities.”⁷ East Anchorage’s Application first focuses on the actual error that needs correcting, asserting that:

[c]ritically, the pairings inexplicably ignored the demographic, economic, and geographic characteristics of these communities and the lack of meaningful contiguity or legislative mutuality between the Eagle River house districts and the Anchorage districts with which they were paired [and alleged that] the “Board’s process and actions magnified the political influence of Eagle River in the Alaska Senate while diluting the influence of voters in Anchorage’s most diverse, yet unified communities of interest in violation of the Alaska Constitution, Alaska Statutes, and basic tenets of equity and fairness.”⁸

⁶ *Pruitt v. State*, 526 P.3d 136, 142 (Alaska 2023).

⁷ First Amended Application to Compel Correction (“East Anchorage Application”), p. 1, ARB Exc. 429.

⁸ *Id.* at 1.

While East Anchorage goes on to identify specific constitutional and statutory claims against the Board, its basis for its application is rooted in its awareness that there has been an error and that error requires correction. All of the specific challenges advanced by East Anchorage in response to the Board's extensive appeal arose from the main constitutional issue on which East Anchorage prevailed, namely the Board's failure to comply with the Alaska Constitution in drawing its Senate districts.

Here, as was the case *In re 2011 Redistricting Cases*, East Anchorage is entitled to an award of the fees incurred in responding to the Board's procedural, evidentiary, and statutory arguments because these arguments were devoted to "a constitutional right upon which [East Anchorage] ultimately prevailed."⁹ While the laws governing constitutional claims have been expanded upon since 2011, the intricately-layered constitutional considerations that are the hallmark in redistricting cases remain unchanged.

III. EAST ANCHORAGE IS ENTITLED TO FEES AND COSTS ARISING FROM AND DEVOTED TO THE BOARD'S VIOLATION OF THE ALASKA EQUAL PROTECTION CLAUSE

In the event this Court finds that the constitutional claim upon which East Anchorage ultimately succeeded was the Alaska Equal Protection Clause and awards

⁹ *In re 2011 Redistricting Cases*, Supreme Court Case No. S-14721, June 19, 2013 Order, pp. 4-5 (The 2011 Redistricting Board was ordered to pay fees arising from unsuccessful arguments because "[t]he Rile Plaintiffs prevailed on the main issue in this case — whether the Board had completed its work in compliance with a process we had required to assure fidelity to the Alaska Constitution.")

only fees arising from and devoted to that claim, an award of full fees and costs remains appropriate under law.

East Anchorage is entitled to recover attorney's fees "devoted in any reasonably connected way to the constitutional claims on which it prevailed."¹⁰ East Anchorage is not entitled to fees "for work done *solely* on" claims that are not constitutional or on which it did not prevail,¹¹ all of East Anchorage's claims were fundamentally and substantially intertwined with, and always devoted to, its Equal Protection Clause claim. Redistricting, by its nature, involves consideration of fact and law intensive constitutional and statutory matters that are interrelated. East Anchorage's Alaska Equal Protection Clause arguments requires an analysis of "the totality of the circumstances" surrounding the Board's Senate pairings. In addition, in order to succeed under the Alaska Equal Protection Clause, East Anchorage was required to provide evidence regarding discriminatory intent or a basis for inferring such intent. This required an in-depth examination of the reasons and rationale behind the Board's decision to adopt Senate District K, which included application of the "hard look" standard of review, the Board's findings regarding contiguity, its

¹⁰ *Meyer v. Stand for Salmon*, 450 P.3d 689, 691 (Alaska 2019).

¹¹ *Lake and Peninsula Borough v. Oberlatz*, 329 P.3d 214, 227 n.38 (Alaska 2104); see also *Meyer v. Stand for Salmon*, 450 P.3d at 459.

compliance, or lack thereof, with procedural and public hearing mandates under the Alaska Constitution and statute, gerrymandering, fair representation, and more.¹²

A. Open Meetings Act (AS 44.63.310, et. seq.)

Perhaps the best example of the interrelation between claims is the impact the Board's Open Meetings Act violations had on all East Anchorage allegations. The Board's violations of the Act and its reliance on executive sessions to veil the rationale behind its senate pairings led to the Superior Court's finding that the Board engaged in "secretive procedures," a Kenai Peninsula fair representation test factor for discriminatory intent."¹³ This Court repeatedly expressed its inability "to discern the specific OMA allowance relied upon for the executive session."¹⁴ Similarly, this Court concluded that:

[b]earing in mind that the results of secretive procedures are, by their nature, difficult to prove, and, paradoxically, that habitually using executive session to conduct the Board's business is indicative of secretive procedures, we agree with the superior court that this factor tends to weigh in favor of finding discriminatory intent.¹⁵

East Anchorage's research, consideration, arguments, and claims regarding the Open Meetings Act, and the implications of executive sessions held in violation of that Act, provided evidence and support for East Anchorage's arguments regarding the Board's

¹² *In the Matter of 2021 Redistricting Cases*, No. 18332, 2023 WL 3030096, at 7, 39 (Alaska Apr. 21, 2023) (citing *Kenai Peninsula Borough v. State*, 743 P.2d 1352, 1372 (Alaska 1987)(emphasis in original).

¹³ *Id.*

¹⁴ *In the Matter of 2021 Redistricting Cases* at 40.

¹⁵ *Id.* at 41.

discriminatory intent. In arguing that the Board violated the Open Meetings Act, East Anchorage was thus pursuing enforcement and protection of two crucial Constitutional rights: their right to equal protection, and their right to a final redistricting plan that fully comports with the Alaska Constitution.

B. Due Process

East Anchorage based its assertion that the Board violated article I, § 7 of the Alaska Constitution primarily on the Board's improper conduct and arbitrary rationale in its pairing of South Muldoon (House District 21) and Eagle River (House District 22) to form Senate District K. Thus, the very research and analyses that informed East Anchorage's allegation of a Due Process Clause violation, also supported East Anchorage's assertion that the Board did not give the Senate pairings a sufficient "hard look" and ultimately its claim that the Board engaged in unlawful geographic and partisan gerrymandering.

C. Evidentiary and Procedural Issues

The Board challenges nearly every aspect of the superior court's findings and conclusions regarding East Anchorage's challenges, "ranging from pure questions of law to fact-intensive inquiries." As a result of the breadth of the Board's challenges, extensive research was required to dispel the Board's often unsubstantiated and sometimes misleading challenges in its petitions for review.

East Anchorage may recover fees and costs for “work on procedural issues involving the merits of a constitutional claim.”¹⁶ East Anchorage’s responses to the Board’s Petition for review regarding evidentiary issues were in “furtherance of [its] constitutional claim.” Such work has been found by this Court to fall within the protections of AS 09.60.010(c).¹⁷

IV. THE ATTORNEY’S FEES AND COSTS SOUGHT BY EAST ANCHORAGE PLAINTIFFS ARE REASONABLE

East Anchorage Plaintiffs seek to recover \$103,135.00 in attorney’s fees and \$1,638.78 in “duplication/reproduction charges for excerpts of record” charged by Alaska Legal Copy.¹⁸

V. CONCLUSION

For all of the reasons expressed above and in the accompanying affidavit of legal counsel, East Anchorage reiterates its request for fees and costs in the above-captioned appeal.

DATED this 12th day of May, 2023.

BIRCH HORTON BITTNER & CHEROT

By: 

Holly C. Wells, ABA #0511113
Mara E. Michaletz, ABA #0803007
Zoe A. Eisberg, ABA #191109

¹⁶ *Pruitt*, 526 P.3d at 143.

¹⁷ *Id.*

¹⁸ See Exhibit A to Affidavit of Holly C. Wells regarding Attorney’s Fees and Costs on Appeal.

Holly C. Wells
Mara E. Michaletz
Zoe A. Eisberg
Birch Horton Bittner & Cherot
510 L Street, Suite 700
Anchorage, Alaska 99501
hwells@bhb.com
mmichaletz@bhb.com
zeisberg@bhb.com
Telephone 907.276.1550

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)	

Trial Court No. 3AN-21-08869CI

AFFIDAVIT OF COUNSEL IN SUPPORT OF EAST ANCHORAGE PLAINTIFFS'
MOTION FOR ATTORNEY'S FEES AND COSTS

I, Holly C. Wells, being first duly sworn under oath, depose and say:

1. I am counsel of record for Felisa Wilson, George Martinez, and Yarrow Silvers ("East Anchorage Plaintiffs").

2. My billing rate for this matter was \$400 per hour. Mara Michaletz's billing rate for this matter was \$400 per hour. Zoe Eisberg's¹ billing rate for this matter was \$290 per hour. Paralegals working on this matter were assigned a billing rate of \$175.

¹ Neé Danner.

These rates accurately reflect prevailing rates in the community based on the background and experience of the individuals involved, have regularly been found to be reasonable by Alaska's state courts, and reflect a reduction from our firm's standard billing rates in light of the public interest nature of the work involved in this case.

3. Our firm incurred \$101,114.00 working on this appeal between February 16, 2022 and the present date, including time spent preparing the East Anchorage Plaintiffs' fee motion. A complete itemized list of services rendered is attached as Exhibit 1.

4. I have reviewed all the time entries in Exhibit 1 and believe them to be reasonable based upon the volume of the record, preparation of excerpts, and the Board's challenge to virtually every finding of fact and conclusion of law issued by the Superior Court pertaining to East Anchorage's application to compel correction of error.

5. In addition to those fees associated with the Alaska Redistricting Board's Petition for Review in S-18332, East Anchorage Plaintiffs are also requesting an award of fees incurred in the course of litigating the Board's Emergency Petition for Review in S-18303.

6. Attached as Exhibit 2 hereto is a tabulation of fees incurred in connection with the Petition for Review, totaling \$2,021.00, which we have excised from those billing entries associated with the trial court proceedings as a whole.

7. I have reviewed the specific billing entries set forth in Exhibit 2, and determined that they fairly and accurately reflect the time needed to competently prepare East Anchorage Plaintiffs' response to the Board's Petition and Motion.

8. Attached as Exhibit 3 hereto is a true and correct copy of the invoice we received for "duplication/reproduction charges for excerpts of record" from Alaska Legal Copy.

9. The total fees and costs sought reflect only those fees and costs that are, upon information and belief, recoverable under relevant law. Those fees equal \$103,135.00 and those costs equal \$1,638.78.

FURTHER AFFIANT SAYETH NAUGHT.

DATED this 12th day of May, 2023.

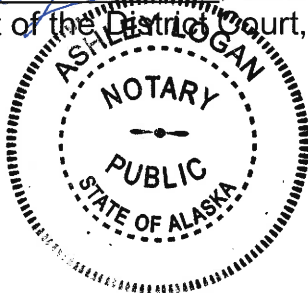
BIRCH HORTON BITTNER & CHEROT

By: 

Holly C. Wells, ABA #0511113

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 12th day of May, 2023 by Ashley Logan, the Clerk of Court of the District Court, Third Judicial District, State of Alaska.




Notary Public in and for Alaska

My Commission Expires: 06/06/2026

East Anchorage Plaintiffs' Itemization of Fees Incurred on Appeal
In the Matter of the 2021 Redistricting Plan

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
1	2/16/22	ZAD	Review findings of fact and conclusions of law issued by superior court; attend Board meeting re: need for an appeal; transmit detailed notes re: same to team; conference with team re: substance of superior court decision and next steps	2.10	609.00
2	2/17/22	ZAD	Review all parties' notices of points on appeal and corresponding notices issued by appellate court; conference with team re: merits of Board points on appeal, strategy for structuring brief, and timeline of drafting process	2.20	638.00
3	2/18/22	ZAD	Review motion practice relating to distinction between petition for review/direct appeal and Board motion for reconsideration; correspondence with team re: same	.30	87.00
4	2/22/22	ZAD	Begin drafting response to Board petition for review, including importing all applicable argument and facts from prior pleadings, organizing brief and formulating outline of same, ensuring responsiveness to each point on appeal articulated by the Board, and attention to statement of facts and article 6, section 10 sections; conference with H. Wells and M. Michaletz re: same; attend scheduling conference with appellate court clerk and provide team with detailed written notes re: same; correspondence with staff re: need for joint motion to stay attorney fee motion until conclusion of appellate proceedings	7.90	2,291.00
5	2/22/22	MEM	Prepare for and participation at status and scheduling conference re: appellate pleadings; follow-up re: same; review amici pleadings; work on petition response and pleadings; continued correspondence re: scheduling and strategy;	4.50	1,800.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
			coordinate drafting of attorneys fees stipulation; repeated conferences re: strategy		
6	2/23/22	ZAD	Continue drafting response brief to Board Petition for Review, including drafting facts and standard of review section and responses to Board assertions of lack of procedural due process; conference with H. Wells re: same	4.80	1,392.00
7	2/23/22	MEM	Work on pleading re: stay of attorneys fees and conference re: outstanding appellate, procedural issues	1.00	400.00
8	2/24/22	ZAD	Continue drafting OMA, equal protection, and facts sections of brief; transmit finalized first draft to H. Wells for further drafting and review	5.40	1,566.00
9	2/24/22	MEM	Finalize stipulation re: attorneys fees and attention to procedure, timing re: same; work on anticipated excerpt issues and coordination; conference with H. Wells re: appellate issues	1.20	480.00
10	2/25/22	ZAD	Legal research regarding applicability of due process protections to government entities; summarize findings for transmission to team; revise draft to include discussion of same	1.90	551.00
11	2/25/22	MEM	Circulate attorneys fees stipulation and correspondence, conference re: same	1.50	600.00
12	2/26/22	HCW	Review Appellant Brief draft; initiate revisions; conduct research regarding same	4.90	1,960.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
13	2/26/22	HCW	Response to Petition for Review; research and revisions	7.70	3,080.00
14	2/28/22	ZAD	Research petitions for review from prior redistricting litigation; draft substantive portions of draft brief addressing extent of documents withheld from production by Board; strategizing call with H. Wells; create insert for brief regarding truncation proceedings by Board	1.80	522.00
15	2/28/22	MEM	Continued correspondence re: stipulation and finalize, file same; work on filing, appeal, and pleading logistics and conferences re: same; review board appellate materials and conference re: strategy	2.20	880.00
16	2/28/22	HCW	Revise Response to Petition for Review; email correspondence with Z. Danner regarding same	7.30	2,920.00
17	3/01/22	ZAD	Email correspondence with team re: existence of formal record on appeal; call with H. Wells re: status of draft response to ARB petition for review	.60	174.00
18	3/02/22	ZAD	Coordinate with H. Wells to flesh out content of response to ARB petition for review, including completing discrete research assignments from H. Wells as to Board meeting practices and providing summary of all testimony regarding Bettye Davis	2.70	783.00
19	3/02/22	ZAD	Review record to determine scope and content of executive sessions on November 9	.80	232.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
20	3/02/22	MEM	Review ARB petition and plaintiff's petitions, excerpts re: scope and possible objections and follow-up re: same; work with Z. Danner re: truncation arguments and appellate remedies, mechanics and review law re: same	4.40	1,760.00
21	3/03/22	ZAD	Conference with J. Spuhler re: legislative history of 1998 amendments and rebuttal to [REDACTION] arguments re: same; review all petitions for review and conference with H. Wells re: same	4.20	1,218.00
22	3/03/22	MEM	Continue review of ARB petition and work with H. Wells, Z. Danner re: coordination of work and tasks re: same; correspondence to court re: overlength motions; attend to issues re: discovery and database; review and conference of outstanding research, citation, excerpt and issue- spotting work	2.30	920.00
23	3/03/22	JJS	Confer with Z. Danner on appellate brief	.20	80.00
24	3/03/22	HCW	Draft response to petition for review; review petitions for review; conduct research regarding same	7.40	2,960.00
25	3/04/22	CSC	Setup Excel database to track citations and cross-reference parties' excerpts of record; review citations within East Anchorage Plaintiffs' Response to Petition for Review	2.00	350.00
26	3/04/22	MEM	Attend to discovery and database issues; continuing strategy and drafting discussions re: response	1.30	520.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
27	3/05/22	ZAD	Email correspondence with J. Spuhler re: legislative history re: HJR 44 and amendments to article VI, section 10 public hearings requirement	.20	58.00
28	3/06/22	CSC	Continue review of updated citations to East Anchorage Plaintiff's Response to Petition to Review by Alaska Redistricting Board; update Excel database	1.50	262.50
29	3/06/22	HCW	Draft response to petition for review; review petitions for review; conduct research regarding same	4.40	1,760.00
30	3/07/22	CSC	Continue review of updated citations to East Anchorage Plaintiff's Response to Petition to Review by Alaska Redistricting Board; update Excel database	2.00	350.00
31	3/07/22	ZAD	Review [REDACTION] comments regarding Judge Matthews' statistical analysis; incorporate into draft response to ARB petition for review; conference with H. Wells re: content of brief; revise brief to incorporate H. Wells comments and discussion of truncation/term limit remedy; draft sections of brief describing discrete Eagle River/East Anchorage communities of interest	8.30	2,407.00
32	3/07/22	MEM	Work on identification of citations, coordination of work and revisions of drafts; review draft and begin work on reference, record, and legal citations; work with [REDACTION] re: ARB allegation re: underpopulation and representation of senate districts; coordinate excerpt and citation work	2.80	1,120.00
33	3/07/22	HCW	Draft response to petition for review; review petitions for review; conduct research regarding same	4.40	1,760.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
34	3/08/22	CSC	Continue review of updated citations to East Anchorage Plaintiffs' Response to Petition for Review by Alaska Redistricting Board; update Excel database; cross-reference other parties' excerpts of record; update database with findings; update draft Response; email to Z. Danner for review	4.00	700.00
35	3/08/22	ZAD	Revise brief consistent with discussions with H. Wells; transmit to P. Crowe for review and formatting	2.10	609.00
36	3/08/22	MEM	Continue work on appellate issues, briefing and coordinate response to appellate court re: arguments; review brief and correspondence with H. Wells re: same	3.50	1,400.00
37	3/08/22	HCW	Draft response to petition for review; review petitions for review; conduct research regarding same	11.40	4,560.00
38	3/09/22	ZAD	Research record to confirm whether [REDACTION] requested amendments to minutes; compile documents for inclusion in excerpt of record; conference with H. Wells and M. Michaletz re: need for dilution analysis under "fair and effective" representation prong of equal protection; revise response to ARB petition for review to include "good findings" discussion and underrepresentation claim made sua sponte by Judge Matthews	6.50	1,885.00
39	3/09/22	MEM	Coordinate outstanding work on citations and cross-checking references re: previous redistricting cases; review response to petition and identify citations, amendments re: same; work with staff re: amendments and appellate requirements; work on identification of excerpt materials and citation references; multiple conferences with H. Wells re: strategy and briefing	7.80	3,120.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
40	3/09/22	HCW	Draft response to petition for review; review petitions for review; conduct research regarding same; email correspondence with Court Clerk regarding argument structure; telephone conferences with Team and other plaintiffs regarding same	14.20	5,680.00
41	3/10/22	ZAD	Extensive revisions and finalization to East Anchorage Plaintiffs' response to petition for review; compile and finalize excerpt of record; work with team to finalize and file same; review responses to petitions for review filed by other parties and discuss with team; phone conference with H. Wells re: status of filings.	12.90	3,741.00
42	3/10/22	MEM	Work with Z. Danner and H. Wells re: comprehensive review of petition response; cross-check and identify record and legal citations; supervise staff re: coordination of amendments; amend and finalize of draft 80- page pleading; perform citation, legal cross-check and continued conferences re: strategy, drafting, and argument details; supervise compilation of excerpt and insertion of citations and deposition testimony references	13.30	5,320.00
43	3/10/22	HCW	Draft response to petition for review; review petitions for review; conduct research regarding same	2.10	840.00
44	3/11/22	MEM	Work on executive excerpt issues and related logistical issues re: procedural requirements; review ARB response and excerpts; follow-up re: appellate and citation issues; continue coordination of hard copy excerpts and issues	2.30	920.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
45	3/11/22	HCW	Prepare executive excerpt and table of contents; email correspondence and telephone conferences with other plaintiffs for collaboration; meetings with other plaintiffs regarding executive excerpt	3.90	1,560.00
46	3/13/22	ZAD	Review documents prepared for inclusion in Board/Intervenors' executive excerpt; zoom call with other plaintiffs/challengers re: preparation of executive excerpt; call with H. Wells re: same	2.30	667.00
47	3/13/22	MEM	Conferences re: format, scope of executive excerpt and meeting, hearing videos; review law and relevant party submissions and proposals re: same	1.30	520.00
48	3/13/22	HCW	Prepare executive excerpt and table of contents; email correspondence and telephone conferences with other plaintiffs for collaboration; meetings with other plaintiffs regarding executive excerpt	3.90	1,560.00
49	3/14/22	ZAD	Assist H. Wells with preparation of combined challengers executive excerpt, to include filing motion for extension of time to file the excerpt and review of audio and video excerpts to be included in same	7.10	2,059.00
50	3/14/22	MEM	Review executive transcript designation and issues and work with H. Wells re: pleadings, organization and filing issues; conferences re: scope and format of excerpts; continued correspondence re: delegation of same	1.50	600.00
51	3/15/22	MEM	Review supplemental submissions, order and respond to correspondence re: same	.60	240.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
52	3/15/22	HCW	Prepare for oral argument; conduct research regarding same	5.30	2,120.00
53	3/16/22	ZAD	Research supplemental Michigan authority provided by [REDACTION]; provide substantive responses to follow-up questions from H. Wells re: redistricting playing field in Michigan, formulate response to this authority for inclusion in oral argument; assist H. Wells with continued preparation for oral argument; research and summarize federal enclaves doctrine in email to H. Wells	4.10	1,189.00
54	3/16/22	HCW	Prepare for oral argument; conduct research regarding same	3.90	1,560.00
55	3/17/22	ZAD	Prepare summary for clients of status of appeal; supplemental research in preparation for oral argument re: Michigan league of women voters' case, annexation regulations	1.50	435.00
56	3/17/22	MEM	Work on appellate argument and strategy; review ARB pleadings and moot, prepare for same	3.60	1,440.00
57	3/17/22	HCW	Prepare for oral argument; conduct research regarding same	6.90	2,760.00
58	3/18/22	ZAD	Assist H. Wells with preparing for Alaska Supreme Court Oral Argument; attend same	6.10	1,769.00
59	3/18/22	MEM	Preparation for and participation at oral argument; follow up conference re: same	3.00	1,200.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
60	3/18/22	HCW	Prepare for and attend oral argument	5.00	2,000.00
61	3/22/22	HCW	Review notice of supplemental authority; conduct research regarding same; review relevant Supreme Court rulings and state jurisdiction cases regarding threat of appeal or evasion of remand	3.90	1,560.00
62	3/23/22	ZAD	Review Notice of Supplemental Authority filed by ARB; conference with H. Wells re: same; draft response to ARB notice; transmit to H. Wells for review	1.50	435.00
63	3/23/22	MEM	Review supplemental authority and conference re: same	.50	200.00
64	3/23/22	HCW	Review and revise response to notice of supplemental authority; meetings with Z. Danner and J. Spuhler regarding same	2.90	1,160.00
65	3/24/22	ZAD	Assist H. Wells with revision and drafting of response to ARB notice of supplemental authority; review H. Wells email re: [REDACTION]	1.20	348.00
66	3/25/22	ZAD	Review Order issued by AK Supreme Court affirming trial court findings regarding Senate District K; discuss with team; review final decision in Michigan League of Women Voters case and analyze for impact on AK litigation	1.20	348.00
67	3/25/22	MEM	Review order and correspondence re: same; review procedural posture and evaluate legal, procedural issues and steps; correspondence re: same	1.40	560.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
68	3/25/22	HCW	Review Supreme Court decision and remand instructions; telephone conference with clients regarding next steps	1.90	760.00
69	3/26/22	ZAD	Research procedural implications of Board filing an appeal to SCOTUS, summarize same and transmit to H. Wells, M. Michaletz for review	1.60	464.00
70	3/27/22	MEM	Review and respond to notice re: ARB meeting and advice	.40	160.00
71	3/28/22	MEM	Review Board filing and conference re: same and strategy	.50	200.00
72	4/21/23	MEM	Review and analysis of appellate attorney's fees precedent and research; discussion with H. Wells regarding same	1.50	600.00
73	5/01/23	ZAE	Conference with litigation team re: strategy for attorney fee motion	.60	174.00
74	5/03/23	ZAE	Create chart illustrating Board violations of Civil Rules in preparation for filing attorney fee motion; transmit same to team for review	2.30	667.00
75	5/09/23	CSC	Confer with H. Wells; review letter Offer of Compromise and create exhibit regarding petition for review time entries	1.00	175.00
76	5/09/23	ZAE	Conference with H. Wells re: strategy for attorney fee motion and fees for petition for review; draft affidavit regarding petition for review fees	1.80	522.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
77	5/10/23	ZAE	Conference with H. Wells re: legal theory underlying fee motion; research "catalyst theory" and constitutional litigant doctrine; draft portion of attorney fee motion addressing same; transmit to H. Wells for review	2.50	725.00
78	5/11/23	CSC	Confer with H. Wells and Z. Eisberg regarding exhibit preparation in support of Motion for Attorneys Fees; draft exhibit and provide to H. Wells for review	2.20	385.00
79	5/11/23	ZAE	Research availability of costs in appellate proceedings; email correspondence to H. Wells re: same	.50	145.00
80	5/11/23	MEM	Conferences with E. Gardner and H. Wells regarding pleadings, logistics, and law	.80	320.00
81	5/11/23	HCW	Draft motion for fees; conduct research regarding same	6.30	2,520.00
82	5/12/23	CSC	Confer with H. Wells, Z. Eisberg, M. Michaletz; revise draft motion for attorney's fees; incorporate team revisions to exhibits in support of same	2.50	437.50
83	5/12/23	ZAE	Review and revise draft motion for attorney fees; correspondence with team re: same	1.60	464.00
84	5/12/23	HCW	Draft Motion for fees; conduct research regarding same	2.10	840.00
Total				289.00	\$101,114.00

**East Anchorage Plaintiffs' Itemization of Fees Incurred in Defense of the Alaska Redistricting Board's Petition for Review
In the Matter of the 2021 Redistricting Plan**

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
1	1/18/22	ZAD	Continue working to finalize exhibit list and establish authenticating information for all exhibits; conference regarding Board and expert witness affidavits, discovery issues with H. Wells and M. Michaletz; review affidavits from other expert witnesses; review order granting motion for rule of law; draft pre-hearing notice re: status of discovery; review similar notices from all other parties; review ARB's Motion for Stay Pending Emergency Petition for Review; conference with team re: same; begin drafting substantive opposition to Motion for Stay; review ARB's emergency Petition for Review; incorporate arguments responsive to petition for review into response to motion for stay	Petition: 3.0	Petition: 870.00
2	1/18/22	HCW	Prepare and review pretrial brief; prepare for witnesses at trial; initiate opposition to petition for review; conduct research regarding same	Petition: 1.50	Petition: 600.00
3	1/19/22	ZAD	Continue drafting opposition to Board's Motion for Stay/Petition for Review; coordinate with H. Wells and M. Michaletz to revise same; review trial briefs filed by all other parties; work with staff to prepare supplement to Rule 26 expert disclosures; tailor prepared draft opposition to respond substantively to petition for review; attend deposition of [REDACTION]; attend and take notes at discovery/scheduling conference; correspondence with team re: need to file objections to ARB's proposed exhibits; review documents from record relevant to VRA analysis; review supplemental direct testimony of Borromeo and Bahnke; review ARB's objections to expert testimony	Petition: 1.90	Petition: 551.00

TIME ENTRY NO.	DATE	TMKR	DESCRIPTION	HOURS	AMOUNT
Total (Petition Only)				6.40	\$ 2,021.00

Holly C. Wells
Mara E. Michaletz
Zoe A. Eisberg
Birch Horton Bittner & Cherot
510 L Street, Suite 700
Anchorage, Alaska 99501
hwells@bhb.com
mmichaletz@bhb.com
zeisberg@bhb.com
Telephone 907.276.1550

Attorneys for Felisa Wilson, George Martinez, and Yarrow Silvers

IN THE SUPREME COURT FOR THE STATE OF ALASKA

In the Matter of the 2021)	
Redistricting Cases)	Supreme Court Nos.
(Matanuska-Susitna Borough, S-18328))	S-18332 / S-18419
(City of Valdez, S-18329))	
(Municipality of Skagway, S-18330))	
(Alaska Redistricting Board, S-18332))	
(Alaska Redistricting Board, S-18419))	
)	

Trial Court No. 3AN-21-08869CI

ORDER GRANTING EAST ANCHORAGE PLAINTIFFS'
MOTION FOR ATTORNEY'S FEES AND COSTS

THIS COURT, having reviewed the East Anchorage Plaintiffs' Motion for Attorney's Fees and Costs and any opposition thereto, **GRANTS** the Motion. The East Anchorage Plaintiffs are hereby awarded \$103,135.00 in attorney's fees and \$1,638.78 in costs. The Alaska Redistricting Board shall pay this amount within 10 days from the date of this Order.

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IT IS ORDERED.

DATED this ____ day of _____, 2023.

Clerk of the Court

Holly C. Wells
Mara E. Michaletz
Zoe A. Eisberg
Birch Horton Bittner & Cherot
510 L Street, Suite 700
Anchorage, Alaska 99501
hwells@bhb.com
mmichaletz@bhb.com
zeisberg@bhb.com
Telephone 907.276.1550

Attorneys for Felisa Wilson, George Martinez, and Yarrow Silvers

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(Alaska Redistricting Board, S-18332))	
(Alaska Redistricting Board, S-18419))	
)	

Trial Court No. 3AN-21-08869CI

CERTIFICATE OF SERVICE AND TYPEFACE

The undersigned hereby certifies that on May 12, 2023, a true and correct copy of East Anchorage Motion for Attorney's Fees and Costs (11 pages), Affidavit of Counsel in Support of East Anchorage Plaintiffs' Motion for Attorney's Fees and Costs (3 pages), proposed Order Granting East Anchorage Plaintiffs' Motion for Attorney's Fees and Costs (2 pages), and this Certificate of Service and Typeface (2 pages) were served electronically on the following and believed to be transmitted without error from alogan@bhb.com at approximately 4:14 p.m.:

Matthew Singer
Lee C. Baxter
Kayla J.F. Tanner
Schwabe Williamson & Wyatt
msinger@schwabe.com
lbaxter@schwabe.com
ktanner@schwabe.com
Thomas Flynn
Cheryl Burghart
Rachel L. Witty
State of Alaska
thomas.flynn@alaska.gov
cheryl.burghart@alaska.gov
rachel.witty@alaska.gov

Michael A. Grisham
Dorsey & Whitney, LLP
grisham.michael@dorsey.com

Nathaniel Amdur-Clark
Whitney A. Leonard
Sonosky, Chambers, Sachse,
Miller & Monkman, LLP
nathaniel@sonosky.net
whitney@sonosky.net

Stacey C. Stone

Gregory Stein
Holmes Weddle & Barcott, P.C.
sstone@hwb-law.com
gstein@hwb-law.com

Robin Brena
Laura S. Gould
Jake W. Staser
Jon S. Wakeland
Brena, Bell & Walker, P.C.
rbrena@brenalaw.com
lgould@brenalaw.com
jstaser@brenalaw.com
jwakeland@brenalaw.com

Eva Gardner
Michael Schechter
Benjamin J. Farkash
Ashburn & Mason, P.C.
eva@anchorlaw.com
mike@anchorlaw.com
ben@anchorlaw.com

Susan Orlansky
Richard Curtner
ACLU of Alaska Foundation
sorlansky@aclualaska.org
richcurtner13@gmail.com

CERTIFICATE OF TYPEFACE

Pursuant to Alaska R. App. P. 513.5(c), the foregoing has been prepared in a proportionally-spaced 12.5-point Arial typeface.

DATED this 12th day of May, 2023.

BIRCH HORTON BITTNER & CHEROT

By: 

Holly C. Wells, ABA #0511113
Mara E. Michaletz, ABA #0803007
Zoe A. Eisberg, ABA #1911094